REMARKS

Withdrawn Claims 16-34 have been cancelled.

Claims 12-15 have been rejected under 35 U.S.C. 102(b) as being anticipated by Silverman et al. (U.S. Patent No. 6,251,064). Claims 1, 3 and 8-11 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Silverman et al. in view of Astarita (U.S. Patent No. 6,228,059), while Claim 2 has been similarly rejected over Silverman et al. in view of Astarita as applied to Claim 1 above, and further in view of Silverman et al. or Silverman II. (U.S. Patent No. 6,251,063), Claims 4 and 5 have been similarly rejected over Silverman et al. in view of Astarita as applied to Claim 3 above, and further in view of Kikawada (U.S. Patent No. 5,637,075) and Claims 6 and 7 have been similarly rejected over Silverman et al. in view of Astarita as applied to Claim 1 above, and further in view of Morrison (U.S. Patent No. 4,609,370). Reconsideration of these claims is respectfully requested.

Silverman et al. disclose an apparatus or medical device 41 that includes a probe member or probe 42 having an optical viewing device. A conventional or other suitable gastroscope or endoscope can be used for probe 42. An exemplary probe is an Olympus CF Type 40L/I endoscope made by Olympus Corporation of Tokyo, Japan. A needle assembly 43 is slidably carried by probe 42. Needle assembly 43 can be of any conventional type, such as a modified sclerotherapy needle similar to the Bard.RTM. Flexitip.TM. needle manufactured by C. R. Bard, Inc. of Billerica, Md., and includes a needle member or needle 44 and protective sleeve 46. Device 41 further includes a supply assembly (not shown) mounted to the proximal end portion of needle assembly 43. Col. 2, lines 54-67.

Amended Claim 1 is patentable by calling for an injection device for use with a probe having a longitudinally-extending passageway to treat tissue of a mammalian body comprising a first tubular member adapted for use with the probe and having a diameter for permitting insertion into the passageway of the probe, a second tubular member slidably disposed in the first tubular member, the first and second tubular members having respective proximal and distal extremities, the distal extremity of the second tubular member being provided with a needle that is extendable from the distal extremity of the first tubular member and means carried by the proximal extremities of the first and second tubular members for locking the proximal extremity of the second tubular member relative to the proximal extremity of the first tubular member, the second tubular member having a column strength when locked within the first tubular member so

as not to buckle during puncture of the tissue by the needle and thus limit retraction of the second tubular member relative to the first tubular member during puncture of the tissue.

Neither Silverman et al. nor Astarita, separately or combined, disclose an injection device of the type called for in Claim 1 in which the second tubular member has a column strength when locked within the first tubular member so as not to buckle during puncture of the tissue by the needle and thus limit retraction of the second tubular member relative to the first tubular member during puncture of the tissue. In this regard, Silverman et al. do not disclose that needle assembly 43 thereof includes a first tubular member and a second tubular member slidably disposed in the first tubular member, let alone that the second tubular member has a column strength when locked within the first tubular member so as not to buckle during puncture of the tissue by the needle.

The creation of the second tubular member with a column strength so as not to buckle within the first tubular member is an important feature of the invention because, as stated on Page 20 beginning at line 17 of the application, the distal extremity of the needle assembly 132 of the invention thus travels essentially one-for-one with the proximal extremity of the needle assembly. In this manner, accurate placement of the needle assembly within the tissue being treated is facilitated.

Claims 2-11 depend from Claim 1 and are patentable for the same reasons as Claim 1 and by reason of the additional limitations called for therein.

Amended Claim 12 is patentable by calling for an injection device for introducing a material into tissue of a mammalian body and for use with a probe having a longitudinally-extending passageway comprising a first tubular member adapted for use with the probe and having a diameter for permitting insertion of the first tubular member into the passageway of the probe, the first tubular member having a proximal extremity with a proximal opening and a distal extremity and being provided with a longitudinally-extending lumen extending from the proximal opening to the distal extremity, a second tubular member extending through the proximal opening of the first tubular member and being slidably disposed in the lumen of the first tubular member, the second tubular member having a proximal extremity and a distal extremity with a needle that is extendable from the distal extremity of the first tubular member, a reservoir of a solution of a biocompatible composition and a biocompatible solvent coupled to the proximal extremity of the second tubular member, the proximal extremity of the first tubular

member having a port distal of the proximal opening, a reservoir of the biocompatible solvent coupled to the port for clearing any of the biocompatible composition that clogs the first tubular member distal of the port.

Contrary to the assertion of the Examiner, Silverman et al. does not disclose a first tubular member adapted for use with a probe and having a diameter for permitting insertion of the first tubular member into the passageway of the probe, a second tubular member extending through a proximal opening of the first tubular member and being slidably disposed in a lumen of the first tubular member, the proximal extremity of the first tubular member having a port distal of the proximal opening and a reservoir of the biocompatible solvent coupled to the port for clearing any of the biocompatible composition that clogs the first tubular member distal of the port. More specifically, Silverman et al. does not disclose that needle assembly 43 thereof includes a first tubular member and a second tubular member being slidably disposed in a lumen of the first tubular member, let alone that the proximal extremity of the first tubular member has a port distal of the proximal opening and a reservoir of the biocompatible solvent is coupled to the port for clearing any of the biocompatible composition that clogs the first tubular member distal of the port.

Claims 13-15 depend from Claim 12 and are patentable for the same reasons as Claim 12 and by reason of the additional limitations called for therein.

In view of the foregoing, it is respectfully submitted that the claims of record are allowable and that the application should be passed to issue. Should the Examiner believe that the application is not in a condition for allowance and that a telephone interview would help further prosecution of this case, the Examiner is requested to contact the undersigned attorney at the phone number below.

Respectfully submitted,

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